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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,339	04/05/2001	Srinivas Sivaprakasam	CWAV-P002	5656

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WAGNER, MURABITO & HAO LLP  
Two North Market Street, Third Floor  
San Jose, CA 95113

EXAMINER
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MOORE JR, MICHAEL J

ART UNIT	PAPER NUMBER
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2666

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/828,339

Applicant(s)

SIVAPRAKASAM ET AL.

Examiner

Michael J. Moore, Jr.

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 20-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-24, 26 and 27 is/are allowed.
- 6) ☒ Claim(s) 1-6, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 7-10 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/18/02</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of claims **1-12 and 20-27** (Group I) in the reply filed on 2/28/2005 is acknowledged.

### ***Information Disclosure Statement***

2. The information disclosure statement filed 11/18/2002 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. There does not appear to be a copy of the cited NPL document (Keshav on PTO-1449) present in Applicant's filed IDS.

### ***Drawings***

3. The drawings are objected to because of the following informalities. Many of the figures contain elements in handwritten form. It is suggested that Applicant provide a more formal version of these drawings in response to this Office Action. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and

Art Unit: 2666

where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

4. Claims **2, 3, 8-10 and 25** are objected to because of the following informalities:

Regarding claim **2**, on line 3, step "b)" should be "b1)".

Regarding claim **3**, on line 3, step "b)" should be "b1)".

Regarding claim **8**, on line 2, the word "the" after word "determining" should be "a".

Regarding claim **9**, on line 3, the word "the" after word "determine" should be "a".

Regarding claim **10**, on line 3, the word "the" before word "power" should be "a".

Regarding claim **25**, on line 3, the word "the" before word "coding" should be "a".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims **1-6, 11, and 12** are rejected under 35 U.S.C. 102(e) as being anticipated by Basso et al. (U.S. 6,690,678) ("Basso"). Basso teaches all of the limitations of the specified claims with the reasoning that follows.

Regarding claim **1**, "during a first time interval, a first plurality of nodes in the network each transmitting a request for medium allocation" is anticipated by the initial bandwidth requests (request for medium allocation) made each time a new connection (VPC/VCC) is established as spoken of on column 17, lines 15-29.

"During the first time interval, a second plurality of nodes in the network each receiving one of the requests from the step a)" is anticipated by Backbone Bandwidth Management Server (BBMS) that is informed by the Connection Admission Control of the origin node each time a new VPC is established as spoken of on column 17, line 66 – column 18, line 14.

"During a second time interval, a first group of the second plurality of nodes transmitting a request for their own medium allocation plus the medium allocation specified in the received request from the step b)" is anticipated by Backbone Bandwidth Management Server (BBMS) that is informed by the Connection Admission Control of the origin node each time a new VPC is established and follows by updating the Connection Allocation Table with the new initial bandwidth requests (old requests plus new requests) as spoken of on column 17, line 66 – column 18, line 14.

Lastly, “during the second time interval, a second group of the second plurality of nodes each receiving one of the requests from the step c)” is anticipated by Connection Allocation Table (CAT) of Figure 18 that is updated with new initial bandwidth requests from the Backbone Bandwidth Management Server (BBMS) upon establishment of new connections as spoken of on column 17, line 66 – column 18, line 14.

Regarding claim 2, “a node in the second plurality of nodes receiving the request from a node to which it is paired on a basis of physical location” is anticipated by Backbone Bandwidth Management Server (BBMS) that is informed by the Connection Admission Control of the origin node each time a new VPC is established as spoken of on column 17, line 66 – column 18, line 14.

Regarding claim 3, “a node in the second plurality of nodes receiving the request from a node to which it is paired on a basis of transmission path characteristics” is anticipated by Backbone Bandwidth Management Server (BBMS) that is informed by the Connection Admission Control of the origin node each time a new VPC is established as spoken of on column 17, line 66 – column 18, line 14.

Regarding claim 4, “a node of the second plurality listening for the request from a node from the first plurality on a pre-determined frequency” is anticipated by Backbone Bandwidth Management Server (BBMS) that is informed by the Connection Admission Control of the origin node each time a new VPC is established as spoken of on column 17, line 66 – column 18, line 14.

Regarding claim 5, “a node of the first plurality transmitting the request on a pre-determined frequency” is anticipated by the initial bandwidth requests (request for

Art Unit: 2666

medium allocation) made each time a new connection (VPC/VCC) is established as spoken of on column 17, lines 15-29.

Regarding claim 6, "a node of the first plurality transmitting the request at a pre-determined power" is anticipated by the initial bandwidth requests (request for medium allocation) made each time a new connection (VPC/VCC) is established as spoken of on column 17, lines 15-29.

Regarding claim 11, "a node granting the requests" is anticipated by Backbone Bandwidth Management Server (BBMS) that is informed by the Connection Admission Control of the origin node each time a new VPC is established and follows by updating (grant) the Connection Allocation Table with the new initial bandwidth requests (old requests plus new requests) as spoken of on column 17, line 66 – column 18, line 14. Lastly, "the node transmitting an indicator of the resources to which each node of the network has been allocated" is anticipated by the Backbone Bandwidth Management Server (BBMS) requesting (indicating) the Connection Admission Control (CAC) of the origin node to adjust the current bandwidth value with the new bandwidth value as spoken of on column 18, lines 44-50.

Regarding claim 12, "a node transmitting a scaling factor; and a node in the network scaling its request for medium allocation by the scaling factor" is anticipated by the Backbone Bandwidth Management Server (BBMS) requesting (transmitting scaling factor) the Connection Admission Control (CAC) of the origin node to adjust (scaling) the current bandwidth value with the new bandwidth value as spoken of on column 18, lines 44-50.

***Allowable Subject Matter***

7. Claims **20-27** are allowable over the prior art of record.
8. Claims **7-10** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim **7**, Basso teaches the method of claim **1**. Basso fails to teach that in further time intervals, pre-determined nodes transmit requests and pre-determined nodes receive requests until all nodes have transmitted their requests.

Regarding claims **8-10**, these claims are further limiting to claim **7** and are thus also allowable over the prior art of record.

Regarding claim **20**, Basso fails to teach that during later time intervals, pre-determined nodes of the nodes that received requests in the previous time interval receive requests from nodes transmitting in the current time interval and repeat this process until there are two nodes yet to transmit. Basso further fails to teach that one of the two nodes transmits its requests to the other node which allows the last receiving node to know the resource allocation requests of all nodes of the network.

Regarding claims **21-27**, these claims are further limiting to claim **20** and are thus also allowable over the prior art of record.

***Conclusion***



Art Unit: 2666

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sugaya et al. (U.S. 6,804,209), Mckinnon, III et al. (U.S. 6,845,106), Wu (U.S. 6,836,469), Raissinia et al. (U.S. 6,788,950), Aggarwal et al. (U.S. 6,876,643), and Sivaprakasam (U.S. 6,785,513) are other references pertinent to this application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Moore, Jr. whose telephone number is (571) 272-3168. The examiner can normally be reached on Monday-Friday (8:30am - 5:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao can be reached at (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael J. Moore, Jr.  
Examiner  
Art Unit 2666

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DANG TON  
PRIMARY EXAMINER